

ESTTA Tracking number: **ESTTA762169**

Filing date: **08/03/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Daily Muse Inc. d/b/a The Muse		
Entity	Corporation	Citizenship	Delaware
Address	1375 Broadway 20th Floor New York, NY 10018 UNITED STATES		

Attorney information	Marc Melzer Hoguet Newman Regal & Kenney, LLP 10 East 40th Street New York, NY 10016 UNITED STATES mmelzer@hnrklaw.com Phone:2126898808
----------------------	--

### Applicant Information

Application No	86906675	Publication date	07/12/2016
Opposition Filing Date	08/03/2016	Opposition Period Ends	08/11/2016
Applicant	Work Muse, LLC. 3100 French Place Austin, TX 78722 UNITED STATES		


### Goods/Services Affected by Opposition

<p>Class 035. First Use: 2015/06/26 First Use In Commerce: 2015/06/26 All goods and services in the class are opposed, namely: (Based on Use in Commerce) Consulting services in the field of human resources development, namely, for the promotion of employee retention, career growth, and increased productivity for employees and employers; (Based on Intent to Use) Providing on-line employment placement services, namely, matching resumes and potential employers via a global computer network; Providing on-line interactive employment counseling and recruitment services; Providing online databases featuring information relating to employers and employees and places of employment; Providing an on-line searchable database featuring classified ad listings and employment opportunities; Providing on-line interactive employment counseling and recruitment services</p>
<p>Class 041. First Use: 2015/06/26 First Use In Commerce: 2015/06/26 All goods and services in the class are opposed, namely: Interactive on-line training services in the field of career management and professional development, work life, and job sharing; Personal coaching services in the field of career management and professional development, work life, and job sharing; Professional coaching services in the field of career management and professional development, work life, and job sharing; Providing group coaching in the field of career management and professional development, work life, and job sharing</p>

### Grounds for Opposition

Priority and likelihood of confusion	Trademark Act Section 2(d)
--------------------------------------	----------------------------

## Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	4531779	Application Date	02/05/2013
Registration Date	05/20/2014	Foreign Priority Date	NONE
Word Mark	THE DAILY MUSE		
Design Mark			
Description of Mark	NONE		
Goods/Services	<p>Class 035. First use: First Use: 2011/08/01 First Use In Commerce: 2011/08/01  Providing career information and advice; Providing career information in the field of professional development, career strategies, career advice and life-style; Providing a resource website providing information in the fields of employment, career advice, job search, professional development, and entrepreneurship</p> <p>Class 041. First use: First Use: 2011/08/01 First Use In Commerce: 2011/08/01  Providing online newsletters in the fields of employment, career advice, job search, professional development, entrepreneurship, technology and lifestyle via electronic mail; Online journals, namely, blogs featuring commentary, advice and information in the fields of employment, career advice, job search, professional development, entrepreneurship, technology and lifestyle</p> <p>Class 045. First use: First Use: 2011/08/01 First Use In Commerce: 2011/08/01  Online social networking services provided through a community website; Online social networking services in the fields of employment, career advice, job search, professional development, entrepreneurship, technology and lifestyle provided via a website; Providing a resource website featuring information in the field human cultural lifestyles</p>		

U.S. Registration No.	4815543	Application Date	02/07/2013
Registration Date	09/22/2015	Foreign Priority Date	NONE
Word Mark	THE MUSE		

Design Mark	<h1>The Muse</h1>
Description of Mark	NONE
Goods/Services	<p>Class 035. First use: First Use: 2012/02/22 First Use In Commerce: 2012/02/22  Providing an employer with candidates or potential employees to fill temporary, contract and permanent positions; Providing an online searchable database featuring classified ad listings and employment opportunities; Providing a website featuring career advice and information; Providing online employment placement services, namely, matching resumes and potential employers via a global computer network; Providing online databases featuring information relating to employers and employees and places of employment; Providing online information in the field of employment, recruitment, careers, personal issues related to careers and work life, job resources, job listings and resumes; Providing a website featuring employment and recruitment information on specific companies in various industries, job recruitment practices, market research and conducting business research relating to various companies and different industries; Career counseling, namely, providing advice concerning careers and entrepreneurship</p> <p>Class 041. First use: First Use: 2012/02/22 First Use In Commerce: 2012/02/22  Career counseling, namely, providing advice concerning education options to pursue career opportunities; Interactive on-line training services in the field of career management and professional development; Personal coaching services in the field of professional development and career management; Professional coaching services in the field of professional development and career management; Providing group coaching in the field of professional development and career management</p>

U.S. Application No.	87038574	Application Date	05/16/2016
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	MUSE COACH CONNECT		
Design Mark	<h2>MUSE COACH CONNECT</h2>		
Description of Mark	NONE		
Goods/Services	Class 035. First use: First Use: 2015/11/04 First Use In Commerce: 2015/11/04		

	<p>Career planning services; Resume preparation; Resume writing; Providing an interactive web site featuring resume writing information to facilitate preparation of resumes; Providing employment counseling services via Internet, phone, and in-person consultation; Providing on-line interactive employment counseling services</p> <p>Class 041. First use: First Use: 2015/11/04 First Use In Commerce: 2015/11/04</p> <p>Life coaching services in the field of job-seeking, career development, and professional development; Life coaching services in the field of job-seeking, career development, and professional development; Personal coaching services in the field of job-seeking, career development, and professional development; Professional coaching services in the field of job-seeking, career development, and professional development</p>
--	---

Attachments	<p>85840719#TMSN.png( bytes )</p> <p>85843212#TMSN.png( bytes )</p> <p>87038574#TMSN.png( bytes )</p> <p>00113857.PDF(225007 bytes )</p>
-------------	--

### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Marc Aaron Melzer/
Name	Marc Melzer
Date	08/03/2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DAILY MUSE INC. d/b/a THE MUSE,  
Opposer,

v.

WORK MUSE, LLC,  
Applicant.

Opposition No. \_\_\_\_\_

In the matter of:

Application Serial No. 86906675

Published on July 12, 2016

Mark:

WORK MUSE

**NOTICE OF OPPOSITION**

In the matter of the application for registration of the mark WORK MUSE in

International Class 35 for

Consulting services in the field of human resources development, namely, for the promotion of employee retention, career growth, and increased productivity for employees and employers; (Based on Intent to Use) Providing on-line employment placement services, namely, matching resumes and potential employers via a global computer network; Providing on-line interactive employment counseling and recruitment services; Providing online databases featuring information relating to employers and employees and places of employment; Providing an on-line searchable database featuring classified ad listings and employment opportunities; Providing on-line interactive employment counseling and recruitment services.

and in International Class 41 for

Interactive on-line training services in the field of career management and professional development, work life, and job sharing; Personal coaching services in the field of career management and professional development, work life, and job sharing; Professional coaching services in the field of career management and professional development, work life, and job sharing; Providing group coaching in the field of career management and professional development, work life, and job sharing.

filed on February 12, 2016, by Work Muse, LLC (“Applicant”), assigned Serial No. 86906675, and published for opposition in the Official Gazette of July 12, 2016, Daily Muse Inc., doing business as The Muse, (“Opposer”) believes that it would be damaged by such registration and

hereby opposes the registration of Applicants mark pursuant to 15 U.S.C. § 1062 and 37 C.F.R. § 2.104.

As grounds of opposition, Opposer alleges that:

1. Opposer Daily Muse Inc. d/b/a The Muse is a Delaware corporation with a principal place of business at 1375 Broadway, 20th Floor, New York, New York, 10018.

2. Applicant Work Muse, LLC is a limited liability corporation formed in Texas with a principal place of business at 3100 French Place, Austin, Texas 78722-1916.

3. Opposer has been and currently is using the marks THE DAILY MUSE, since at least August 2011, THE MUSE, since at least February 2012, and MUSE COACH CONNECT, since at least November 2015 in connection with its business connecting employers with prospective employees and providing access to career counseling (“Opposer’s Marks”).

4. Opposer’s mark THE DAILY MUSE was registered by the United States Trademark Office on May 20, 2014 and assigned U.S. Registration No. 4531779.

5. Opposer’s mark THE MUSE was registered by the United States Trademark Office on September 22, 2015 and assigned U.S. Registration No. 4815543.

6. Opposer filed for registration of MUSE COACH CONNECT on May 16, 2016, in U.S. trademark application Serial No. 87038574.

7. Applicant filed its application to register proposed mark WORK MUSE on February 12, 2016, in U.S. trademark application Serial No. 86906675, claiming both actual use as early as June 2015 and bona fide intent to use the mark in commerce, as to some of Applicant’s claimed uses.

8. Opposer’s use of Opposer’s Marks has been valid and continuous, as described in ¶ 3 above, and has not been abandoned. Opposer’s marks are symbolic of extensive good will

and consumer recognition. As a result of substantial time and effort in advertising, promotion, and the cultivation of business relationships, Opposer has developed an exceedingly valuable goodwill in respect to Opposer's Marks.

9. Applicant's Mark and Opposer's Marks are very similar in sound, appearance, and meaning.

10. Applicant's services and Opposer's services are very similar and related.

11. Applicant's services and Opposer's services are offered or are likely to be offered in the same channels of commerce and offered to similar customers.

12. Applicant's use of and application to register WORK MUSE is without the consent or permission of Opposer.

13. Applicant's Mark and Opposer's Marks are likely to be confused.

14. On information and belief, Opposer's first use of Opposer's Registered Marks – THE DAILY MUSE and THE MUSE – precede Applicant's first use of Applicant's Mark in commerce.

15. On information and belief, Opposer's first uses of Opposer's registered marks THE DAILY MUSE and THE MUSE precede the filing of Applicant's application to register Applicant's Mark in the United States Patent and Trademark Office, and precede Applicant's claimed first use in commerce of Applicant's Mark.

16. As a result of the confusing similarity between Opposer's Marks and Applicant's Mark and because the services offered by Opposer and Applicant are very similar, are offered in similar channels of commerce and directed to similar customers, registration of the proposed mark WORK MUSE in connection with Applicant's services is likely to deceive customers and

prospective business relations as to the source or sponsorship of such services, to cause confusion, or to deceive.

17. Consumers familiar with the Opposer's Marks are likely to mistakenly believe that Applicant's services are sponsored, authorized, associated with or otherwise approved by Opposer because the proposed mark closely resembles Opposer's Marks. Deficiencies or faults in the quality of Applicant's services are likely to reflect negatively upon, tarnish, and seriously injure the reputation which Opposer has established for the services provided under Opposer's Marks. This confusion is likely to result in loss of revenues to Opposer and damage Opposer's reputation.

18. Applicant's use of Applicant's Mark does or is likely to falsely suggest a relationship between Applicant's services and Opposer's services. The term "muse" is neither descriptive nor generally used in the career services industry, such that Applicant's use of WORK MUSE is likely to cause confusion, mistake, or deception with respect to the source or sponsorship of Applicant's services in light of Opposer's longer use of the marks THE DAILY MUSE and THE MUSE to provide similar services. Such use is likely to cause a significant level of sales by Applicant to consumers who would be confused by the use of the proposed mark into believing that Opposer is the source of Applicant's services, resulting in ill-gotten gains by Applicant. Applicant's use of the proposed mark is therefore likely to result in Applicant's trading off of and benefiting from the goodwill associated with Opposer.

19. Opposer is likely to be damaged by the registration of Applicant's Mark in that the prima facie effect of registration of Applicant's Mark could impair Opposer's right to use the wording contained in Applicant's Mark, which is similar to Opposer's Marks.



20. For the foregoing reasons, the registration of Applicant's Mark is contrary to provisions of the Lanham Act, and Opposer would be significantly damaged thereby.

WHEREFORE, Opposer prays that the application for the registration of the mark WORK MUSE, Serial No. 86906675, be refused and that this Opposition be sustained in favor of Opposer.

The fee required by 37 C.F.R. § 2.6(a)(17) is enclosed herewith.

Opposer hereby appoints Marc Aaron Melzer, member of the Bars of the States of New York and New Jersey, counsel at Hoguet Newman Regal & Kenney, LLP, 10 East 40<sup>th</sup> Street, New York, New York, 10016, to act as attorney in the matter of this Opposition, to prosecute said Opposition, to transact all business in the Patent and Trademark Office, and in the United States courts connected with this Opposition, to sign its name to all papers which are hereinafter to be filed in connection therewith, and to receive all communications relating to the same.

Respectfully submitted for Opposer,

Dated: August 3, 2016

By: Marc Aaron Melzer  
Marc Aaron Melzer, Esq.  
Attorney for Opposer

Hoguet Newman Regal & Kenney, LLP  
10 East 40<sup>th</sup> Street  
New York, New York 10016  
Phone: (212) 689-8808  
Fax: (212) 689-5101  
E-mail: mmelzer@hnrklaw.com

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DAILY MUSE INC. d/b/a THE MUSE,  
Opposers,

v.

WORK MUSE, LLC,  
Applicant.

Opposition No. \_\_\_\_\_

In the matter of:

Application Serial No. 86906675

Published on July 12, 2016

Mark:

WORK MUSE

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Notice of Opposition has been served on the following by mailing said copy on August 3, 2016, via overnight delivery, postage prepaid, to Applicant at its correspondence address of record:

Melissa Taylor  
Work Muse, LLC  
3100 French Place  
Austin, Texas 78722

By: Marc Aaron Melzer  
Marc Aaron Melzer, Esq.